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STATE CORPORATION AS PARTY IN FEDERAL COURTS. — The increasing frequency with which state corporations are appearing as parties in the federal courts calls forth a timely and suggestive expression of opinion from the Hon. Francis E. Baker, Judge of the Seventh Circuit Court of the United States. *The State Corporation as a Party in Federal Courts*, 13 Am. Law. 7 (Jan. 1905). Since a corporation is held not to be a "citizen," it has been necessary, in order to bring corporations within the "citizenship" jurisdiction of the federal courts, to look behind the corporate entity and take cognizance of the rights of the stockholders as citizens. The law arising from this necessity has gone through three successive stages, according to Judge Baker. The first, represented by Bank of U. S. v. Deveaux (5 Cranch [U. S.] 61), established a rebuttable presumption, at that time in the main true in fact, that a corporation is composed of citizens of the chartering state. But with the increased facilities for travel and intercommunication between the states, and the resultant diversity of citizenship among the stockholders of corporations, came the need of adjusting the rule to these new conditions. Accordingly, the second stage was reached in the case of Louisville, etc., R. R. Co. v. Letson (2 How. [U. S.] 497) which adopted the view that a corporation being an artificial person created by the state is, as such, deemed to be a citizen of that state for the purpose of suing and being sued. This fiction, however, appears almost uniformly in subsequent cases as an irrebuttable presumption that the stockholders of a corporation are citizens of the chartering state, and in that form it receives the writer's support. The distinguishing features of the third stage are the migratory and consolidated corporations holding charters from two or more states. After considerable diversity of decision, the plurality conception of these corporations as having separate existence in each of the chartering states seems for the purposes of determining federal jurisdiction to be now in the ascendancy, although it is not clear whether the fiction of citizenship attaches to any one of the chartering states as a matter of choice or is limited to the state of original charter. *Chicago, etc., Ry. Co. v. Whitton*, 13 Wall. (U. S.) 270; *Southern Ry. Co. v. Allison*, 190 U. S. 326. In either event access to the federal courts is thereby often afforded in a chartering state even for the settlement of controversies with the citizens of that state. This view, in Judge Baker's opinion, is indefensible. With respect to migratory corporations, it disregards the limitation which at the outset justified the fiction, namely, the existence of the corporation's principal offices and business headquarters within the chartering state; with respect to consolidated corporations, it overrides the solidarity conception which has always prevailed in non-jurisdiction cases.

The conclusions submitted by Judge Baker as applicable to corporations holding charters from two or more states are, briefly stated, that the solidarity conception should be true in law as it is in fact; that the habitat of such a corporation should be regarded as co-extensive with its charters; and that the irrebuttable presumption should be that such a corporation, having its headquarters within its habitat, is composed jointly of citizens of the several chartering states.

WIRELESS TELEGRAPHY IN WAR. — Some questions of novelty and importance in international law have been raised by two incidents of the Russo-Japanese war. The first of these was the installation and operation by Russia, during the siege of Port Arthur, of a wireless telegraphic station, situated in Chinese territory, and used to transmit messages from the blockaded city to St. Petersburg. The other was the publication in April, 1904, of a note addressed to the neutral powers, which stated, in substance, that the Russian government proposed to treat as spies all war correspondents making use of wireless telegraphy within the zone of Russian naval operations. These instances of the bearing of wireless telegraphy upon the rights and obligations of neutrals and belligerents are discussed in a recent article by an acknowledged authority. *Wireless Telegraphy in War*, by T. S. Woolsey, 14 Yale L. J. 247 (March, 1905). The author's conclusion in regard to the first incident, that China was

under a duty to prohibit the establishment and operation of the wireless station, seems to be warranted by an analogous precedent. During our own war with Spain, the British government, acting upon the opinion of the legal advisers of the crown, refused us permission to land at Hong Kong a cable from Manila, to be used in the prosecution of the war. It will scarcely be disputed that no distinction can be taken between the cable and the wireless telegraph as a means of communication. Mr. Woolsey forcibly contends, however, that a different rule must apply to cases of the use by a belligerent of a telegraphic system that has been in operation for some time. There a neutral nation should be under no obligation to interfere, because the use for purposes of war is purely incidental to the commercial character of the plant.

From the position taken in the Russian note, the writer dissents. Newspaper correspondents who are found making use of the wireless telegraph to transmit news to their employers cannot, in his opinion, be legally treated as spies, for they lack two essential elements, — a disguise and an intent to inform one of the belligerents. Mr. Woolsey comes finally to the conclusion that the only feasible mode by which belligerents may rightfully control the use of wireless telegraphy by correspondents is by prohibiting it within the zone of military and naval operations, under penalty of confiscation of the instruments used. The opinion is based upon the premise that this is the only method by which a belligerent may preserve its conceded right to censorship. There seems to be no precedent in point. It is, however, but reasonable that a nation at war should be free from the disadvantage of having its plans come prematurely to the enemy's knowledge; and if it is proved, as Mr. Woolsey seems to think it will be, that no method short of absolute prohibition of the use of the wireless telegraph will safeguard this right, the soundness of his conclusion must be conceded.

- ABOLITION OF THE PROFESSIONAL CRIMINAL, THE.** *H. J. B. Montgomery.* Advocating prompt assistance of the released convict in obtaining work, as the best way to reduce the number of professional criminals. 30 *Law Mag. & Rev.* 188.
- ACQUISITION DE LA POSSESSION PAR REPRÉSENTANT EN DROIT ROMAIN.** *Georges Cornil.* Discussing disputed theories in the Roman law of acquisition of possession through another. 7 *Rev. de Droit Internat.* 80.
- ACQUISITION DU TERRITOIRE ET LE DROIT INTERNATIONAL, L'.** II. *Ernest Nys.* Examining the methods of acquiring territory not a part of a civilized state. 6 *Rev. de Droit Internat.* 604. III. Treating of protectorates, spheres of influence, and disguised forms of domination in uncivilized regions. 7 *ibid.* 53.
- ADJECTIVE LAW OF THE SMRITIS, THE.** (The Hindu Law of Procedure.) *J. R. Gharpure.* 7 *Bombay L. Rep.* 2.
- DE L'AUTORITÉ ET DE L'EXECUTION DES JUGEMENTS ÉTRANGERS EN FRANCE.** I. *P. de Paepé.* First of a series of articles on the validity and enforcement of foreign judgments in France. 7 *Rev. de Droit Internat.* 5.
- CITIZENSHIP OF THE UNITED STATES AS A LEGAL STATUS.** *Emlin McClain.* Containing an intimation that inhabitants of our new possessions are citizens. 13 *Am. Law.* 57.
- CIVIL DEATH IN VIRGINIA: SUITS AGAINST FELONS.** *W. Allen Perkins.* Concluding that there is no civil death in Virginia, and that a felon can be sued under Virginia Code. 10 *Va. L. Reg.* 849.
- COMPARATIVE ROMAN LAW.** II. *James Williams.* 30 *Law Mag. & Rev.* 149.
- CONSTITUTIONAL LIMITATIONS ON PRIMARY ELECTION LEGISLATION.** *Floyd R. Mechem.* Reviewing the decisions and concluding that legislatures have power to pass all laws requisite for reasonable regulation. 3 *Mich. L. Rev.* 364.
- DISTINCTION ENTRE LA POSSESSION ET LA DÉTENTION, LA.** *Georges Cornil.* A comparative study of the distinction in modern civil law between natural and civil possession. 6 *Rev. de Droit Internat.* 646.
- DOCTRINE OF LIS PENDENS AS APPLIED IN INDIA, AND ITS APPLICATION TO SALES IN EXECUTION OF DECREES, THE.** *Abdul Karim Khan.* (Continued.) 2 *Allahabad L. J.* 19, 35.
- DOCTRINE OF PREVIOUS JEOPARDY.** *Elmer E. Scott.* An article collecting all the authorities. 60 *Cent. L. J.* 191.

- DUE PROCESS OF LAW. *Sanford B. Ladd*. A brief discussion showing the impossibility of exact definition of the phrase and the attitude of the Supreme Court. 9 *Kansas City Bar Monthly* 3.
- ECCLESIASTICAL JURISDICTION IN ENGLAND, THE. *Edwin Maxey*. A short historical sketch of its development. 3 *Mich. L. Rev.* 360.
- ELEMENTS AND MEASURE OF DAMAGES IN AN ACTION BY A DEPOSITOR AGAINST A BANK FOR THE WRONGFUL DISHONOR OF HIS CHECK. *Glenda Burke Slaymaker*. 60 *Cent. L. J.* 144.
- FEDERAL CONTROL OF CORPORATIONS DOING AN INTERSTATE BUSINESS. *E. Hilton Jackson*. Referring to the first annual report of the Commissioner of Corporations, James R. Garfield. 4 *Can. L. Rev.* 166.
- FEDERAL REGULATION OF CORPORATIONS, A DANGEROUS DEPARTURE. *John E. Parsons*. Contending that it would lead to too great a change in our political system. 18 *Green Bag* 135.
- FEDERAL REGULATION OF CORPORATIONS, A PUBLIC NECESSITY. *William J. Curtis*. Maintaining that corporations need relief from continual harassment by state legislatures. 18 *Green Bag* 138.
- FRAUDULENT ALTERATION OF CHEQUES, THE. *N. G. Pilcher*. Maintaining in adverse criticism of a local case that (1) negligence of drawer should protect the bank; (2) existence of negligence should be left to the jury. 2 *Commonwealth L. Rev.* 57.
- FRAUDULENT WAREHOUSE RECEIPTS AND BANKERS' RIGHTS THEREUNDER. *Chas. M. Holt*. Discussing the subject under the Quebec Civil Code. 4 *Can. L. Rev.* 107.
- INDIVIDUALISM AND LEGAL PROCEDURE. *Walter Storrs Clark*. A comment upon the slowness of legal procedure in America, ascribing it to the desire to protect the individual. 14 *Yale L. J.* 263.
- INTER-STATE SERVICE OF PROCESS. *T. R. Bavin*. Upholding the Australian federal statute. 2 *Commonwealth L. Rev.* 61.
- JUDICIAL USURPATION OF POWER. *Camm Pattenon*. Advocating limited tenure of office and popular election of judges of the Supreme Court; deprecating the growing use of injunctions; and discussing the case of *South Dakota v. North Carolina*. 10 *Va. L. Reg.* 855.
- LAND TENURE IN THE ISLE OF MAN. *G. A. Ring*. 30 *Law Mag. & Rev.* 129.
- LAW OF ANCIENT LIGHTS AND ITS REFORM, THE. *J. Andrew Strahan*. Pointing out the unreasonableness of the English law on this subject and suggesting reformatory legislation. 30 *Law Mag. & Rev.* 181.
- LEGAL STATUS OF JAPANESE WOMEN. II. *R. Vashon Rogers*. 4 *Can. L. Rev.* 116.
- LEGAL STATUS OF THE PHILIPPINES, THE—AS FIXED BY THE RECENT DECISION OF THE SUPREME COURT IN THE JURY TRIAL CASES. *Lebbeus R. Wilfley*. Suggesting that constitutional provisions relating to fundamental rights should extend to the Philippines, while those relating to such matters as methods of procedure and forms of judicial trial should not. 14 *Yale L. J.* 266.
- LIABILITY OF AN EMPLOYER FOR THE TORTS OF AN INDEPENDENT CONTRACTOR. II. *C. B. Labatt*. A monograph covering 187 pages, treating cases in which liability is imputed to the employer. 41 *Can. L. J.* 49.
- LIFE INSURANCE AND DEATH AT THE HANDS OF THE LAW. *H. N. G.* Maintaining view that recovery should be allowed. 8 *L. Notes* 465.
- LIMITATIONS OF THE ACTION OF ASSUMPSIT AS AFFECTING THE RIGHT OF ACTION OF THE BENEFICIARY, THE. I. *Crawford D. Henning*. Arguing that the English rule that the beneficiary cannot recover in assumpsit is a matter of adjective rather than substantive law. 52 *Am. L. Rev.* 764; 53 *ibid.* 112.
- LIMITATIONS OF THE POWER OF A STATE UNDER A RESERVED RIGHT TO AMEND OR REPEAL CHARTERS OF INCORPORATION. *Horace Stern*. 53 *Am. L. Rev.* 1, 73, 145. See *supra*.
- MARRIED WOMEN'S PROPERTY LAW IN ONTARIO. *Geo. S. Holmsted*. 25 *Can. L. T.* 105.
- NOTICE OF ACCEPTANCE IN CONTRACTS OF GUARANTY. *W. P. Rogers*. Containing a thorough examination of all the cases and contending that the requirement of notice in contracts of guaranty is anomalous. 5 *Columbia L. Rev.* 215.
- PRESUMPTIONS AND BURDEN OF PROOF IN ACTIONS AGAINST CARRIERS FOR INJURY TO PASSENGERS AND DAMAGE TO FREIGHT. *R. O. Summerville*. 60 *Cent. L. J.* 123.
- PSYCHOLOGY OF NEGLIGENCE, THE. *Charles Morse*. Contending that mental attitude should not be regarded in determining the existence of negligence, and that the proper standard is objective. 41 *Can. L. J.* 233.

- PUBLICATION OF LIBEL BY DICTATION TO STENOGRAPHER. *Anon.* Taking an adverse view. 8 L. Notes 467.
- PUBLIC REGULATION OF QUASI-PUBLIC CORPORATIONS. *Henry H. Ingersoll.* Showing that reasonable control of such corporations is legal and proper, and contrasting the Dartmouth College case with *Munn v. Illinois*. 14 Yale L. J. 255.
- REAL PROPERTY LAW IN NEW ZEALAND. *T. F. Martin.* Giving details of statutory provisions to simplify the cumbersome common law of England as to conveying. 2 Commonwealth L. Rev. 49.
- REMOVAL OF PUBLIC OFFICERS FROM OFFICE FOR CAUSE. II. *Alonzo H. Tuttle.* 3 Mich. L. Rev. 341.
- RESORT TO THE JUDICIARY TO PRESERVE THE PURITY OF ELECTIONS. *William E. Hutton.* Discussing a recent Colorado case and the extraordinary jurisdiction over elections assumed by the Supreme Court of that state. 18 Green Bag 159.
- RES JUDICATA BETWEEN CO-DEFENDANTS. *K. S. Ramaswami Sastri.* Discussing and classifying the decisions upon the subject. 3 Madras Leg. Comp. 95.
- "RHAPSODY OF ANTIQUATED LAW, A." *Margaret Center Klingelsmith.* An appreciation of Mr. Maitland's recent edition of the Year Books. 52 Am. L. Reg. 755.
- SEVERAL MODES OF INSTITUTING CRIMINAL PROCEEDINGS IN PENNSYLVANIA. *John C. Bell.* 61 Leg. Int. 529.
- SOVEREIGN LITIGANTS. *Albert W. Gaines.* A collection of cases showing that sovereigns may sue in foreign courts but cannot be sued unless they submit to jurisdiction. 13 Am. Law. 54.
- STATE PROTECTION OF SUBJECTS ABROAD. *F. B. Brook.* Discussing the extent to which it should be afforded and the means by which it may be enforced. 30 Law Mag. & Rev. 157.
- THE EXPANSION OF CONSTITUTIONAL POWERS BY INTERPRETATION. *Paul Fuller.* 5 Columbia L. Rev. 193.
- TORT LIABILITY FOR MENTAL DISTURBANCE AND NERVOUS SHOCK. *Francis M. Burdick.* 5 Columbia L. Rev. 179.
- TRANSFER OF INTERESTS IN ASSOCIATIONS, THE. I. TRANSFER OF A PARTNER'S SHARE. *George Wharton Pepper.* A résumé of the laws governing the transfer of interests in partnerships and shares in corporations. 52 Am. L. Reg. 738.
- UNITED STATES DEPARTMENT OF JUSTICE, THE. *John A. Fairlie.* Describing the organization and duties of the Department. 3 Mich. L. Rev. 352.
- WIFE TESTIFYING AGAINST HUSBAND'S PARAMOUR IN ADULTERY CASES. *Edward W. Faith.* Collection of authorities and discussion of principles on which the incompetency of husband and wife to testify against each other is based. 60 Cent. L. J. 164.
- WIRELESS TELEGRAPHY IN WAR. *Theodore Salisbury Woolsey.* 14 Yale L. J. 247. See *supra*.

II. BOOK REVIEWS.

THE PUBLICATIONS OF THE SELDEN SOCIETY. Vol. XIX. For the year 1904. Year Books of Edward II., Vol. II., 2 & 3 Edward II., A.D. 1308-9 and 1309-10. Edited by F. W. Maitland. London: Bernard Quaritch. 1904. pp. xix, 244. 4to.

The appearance of a second volume of Professor Maitland's Year Books of Edward II. is a welcome supplementary volume of the Selden Society's publications for the year 1904. The Society goes beyond its promise in the speed with which the Year Books are issued, and it is to be hoped that this generosity may be continued.

We turn as always to the introduction for wise and witty comment on the matter contained in the text. In this introduction Professor Maitland points out again the gradual way in which the present system of law reporting was evolved. He makes it quite clear that the first reports were scattered notes of cases taken by some apprentice who happened to be interested in a particular case, and that later collections of such notes were made for purposes of study, and that the regular reporting of the transactions in the court came later. One of the manuscripts which are described appears to be an interesting early example of a collection of cases made for the purpose of instruction in law by the inductive method.